

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RAMON VILLANUEVA-BAZALDUA,
individually and on behalf of others
similarly situated,

Plaintiff,

v.

TRUGREEN LIMITED PARTNERS¹
and, TRUGREEN, INC.², d/b/a
TRUGREEN CHEMLAWN³,

Defendant.

Civil Action No.: 06-185 GMS

MOTION TO AMEND
CLASS CERTIFICATION BRIEFING SCHEDULE

COME NOW Defendants TruGreen Limited Partnership, d/b/a TruGreen Chemlawn, as well as TruGreen, Inc. (collectively, the "Defendants"), to respectfully request an amendment to the existing class certification briefing schedule, based on the following:

WHEREAS, On May 25, 2007, the Court discussed and resolved certain discovery issues and set forth a briefing schedule for Plaintiff's Rule 23 Motion for Class Certification. That schedule was based, in large part, on the timing of Defendant's anticipated production of documents and information in response to the discovery requests that had been in dispute. Specifically, counsel for Defendant believed it could produce such information to Plaintiff's counsel by June 25, 2007.

¹ The correct legal name is TruGreen Limited Partnership.

² TruGreen, Inc. was not Plaintiff's employer, and therefore, is not a proper party in this action.

³ TruGreen, Inc. does not do business as (d/b/a) TruGreen Chemlawn; TruGreen Limited Partnership does do business as (d/b/a) TruGreen Chemlawn.

WHEREAS, despite Defendant's best efforts, and with Plaintiff's counsel's cooperation, initial responses to this phase of discovery were not served until June 29, 2007. As to the remaining requests, Defendant has determined it will not be able to fully respond to those requests until August 10, 2007.

WHEREAS, during this time, counsel for Defendant who has had primary responsibility for discovery was suddenly unavailable due to a death in the immediate family, which also affected production efforts.

WHEREAS, counsel for Defendant has conferred with counsel for Plaintiff, and counsel for Plaintiff does not oppose this Motion.

WHEREAS, For all of these reasons, Defendant respectfully requests that the briefing schedule for the Rule 23 Motion for Class Certification be amended as follows:

- a. Rule 23 Motion due: September 14, 2007.
- b. Opposition to Rule 23 Motion due: October 19, 2007.
- c. Reply Brief due: November 2, 2007.

McCARTER & ENGLISH, LLP

/s/ Daniel M. Silver

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Dated: July 18, 2007

Attorneys for Defendant TruGreen

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Defendant.

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[PROPOSED] ORDER

IT IS HEREBY ORDERED this ____ day of _____ 2007 for good cause shown that the briefing schedule on plaintiff's motion for class certification shall be amended as follows:

- a. Rule 23 Motion and opening brief due: September 14, 2007.
- b. Opposition to Rule 23 Motion due: October 19, 2007.
- c. Reply Brief due: November 2, 2007

The Honorable Gregory M. Sleet

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STATEMENT PURSUANT TO LOCAL RULE 7.1.1

The undersigned counsel hereby certifies that counsel for the defendants conferred with counsel for the plaintiff prior to the filing of the foregoing motion, and counsel for plaintiff indicated that plaintiff does not oppose the relief sought.

McCARTER & ENGLISH, LLP

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Attorneys for Defendant TruGreen

CERTIFICATE OF SERVICE

I, Daniel M. Silver, undersigned counsel of record, hereby certify that on January 19, 2007, I caused a copy of the foregoing Defendant's Motion to Amend Class Certification Briefing Schedule to be served upon all counsel of record via CM/ECF Filing.

McCARTER & ENGLISH LLP

/s/ Daniel M. Silver

Daniel M. Silver (DE Bar Id. No. 4758)